

fences that had been established and constructed in critical locations along the border.

We provided new criminal penalties for construction of border tunnels to address what has happened in places where there are currently fences across borders; where people have created tunnels to dig under those fences to come to the United States. We added new checkpoints and points of entry throughout the entire border. We expanded the exit-entry security system at all land borders and airports.

Our legislation dealt in a comprehensive way moving forward to make sure we were creating a secure border. That was a key component of legislation we are dealing with.

Beyond securing our borders, which is very essential as we put together this effort on comprehensive immigration reform, we also recognized that we as a nation must enforce our immigration laws. So we included in our legislation significant provisions to ensure we are enforcing those laws.

We added 5,000 new investigators to help us enforce our laws. We established in that legislation 20 new detention facilities so we can effectively process those who are caught here in our country illegally. We included provisions in our legislation that would reimburse States for detaining and imprisoning criminal aliens. That is an issue which has affected local and State governments throughout our country.

We included in our legislation requirements for a faster deportation process. We increased penalties for gang members, for money laundering, and human trafficking. We increased document fraud detection, and we created new fraudproof immigration documents for people who are here in this country with biometric identifiers.

Finally, we expanded authority to remove suspected terrorists from our country.

Looking at what we did in coming up with an immigration enforcement package in our country, we said we were going to ensure that we as a nation of laws would have a legal system in place that would in fact be enforceable and that we would put the resources behind that enforcement.

We also dealt with another issue; that is, an issue that has caused so much controversy around this country. Essentially, it had to do with the question what do you do with 11 million or 12 million human beings currently residing in our country. We felt as a group of Democrats and Republicans working on this legislation that we needed to come up with a realistic and humane way of approaching the 12 million people who are here illegally in our country. These are the people who probably have cleaned the hotel rooms and motel rooms where most Americans stay. These are the people who are working at construction sites in each one of the our States around the country. These are the people who are the

backbone of the agricultural workforce in places such as Idaho, Colorado, and throughout our great Nation.

So we decided to come up with a program where we would deal with these 12 million people in an honest, realistic, and straightforward manner. We said we would require them to pay a fine. They have broken the law. They will be punished. They have broken the law and they will be punished by the requirements that they pay a fine for their illegal conduct. We require that they register with the U.S. Government. That is not a requirement for any U.S. citizen, but we require these people to step forward, to come out of the shadows and to register themselves with the U.S. Government.

We require them to pay additional registration fees. We require them to learn English. We require them to learn American history and government. We require them to pass medical exams. And we require them to be continuously employed with a valid temporary visa.

We came up with a program that the President himself has talked about in positive terms, where essentially we would bring these people to come out of the shadows. We require them to go to the back of the line. We require them to pay a penalty. We require them to learn English, and we require them to learn about American history as a realistic way of approaching the reality of 12 million human beings who live here in our country today.

Let me come back and talk a little bit about the piecemeal approach—this political approach which is being talked about here in the Congress today. It is in fact a piecemeal approach because all of those who have studied this issue recognize that unless we deal with immigration issues in a comprehensive way, it will not work. Many of us in this Chamber have had many conversations with the President of the United States about the need for comprehensive immigration reform. On August 3 of this year, in a public statement, the President said:

I'm going to talk today about comprehensive immigration reform. I say comprehensive because unless you have all five pieces working together it's not going to work at all.

This is the President of the United States saying it is not going to work at all unless we do this in a comprehensive manner.

In another statement, he said the following:

We will fix the problems created by illegal immigration, and we deliver a system that is secure, orderly, and fair. So I support comprehensive immigration reform that will accomplish these five objectives.

That was the President of our country.

He said in another statement on May 15 of 2006 the following:

Some in this country argue that the solution is to deport every illegal immigrant, and that any proposal short of this amounts to amnesty. I disagree. It is neither wise nor

realistic to round up millions of people, many with deep roots in the United States, and send them across the border. There is a rational middle ground.

That is from the President's Presidential address of May 15, 2006.

On May 15, on that same day, he said the following:

An immigration reform bill needs to be comprehensive, because all elements of this problem must be addressed together, or none of them will be solved at all. Congress can pass a comprehensive bill for me to sign into law.

That is what the President of the United States has asked us as a Congress to do. That was what Democrats and Republicans in this Chamber came together to do several months ago.

It would be my hope as we consider the legislation which we will be debating this week that we take the statements of the President, the statements that have been made by members of his administration, and statements made here on the floor, and that we address this issue of immigration reform in a manner that is truly going to work as opposed to addressing it in a piecemeal manner as has been suggested by the legislation which we will be considering.

I conclude by asking my colleagues in the Senate today to make sure as we move forward to not let politics triumph over the national security issue of the broken borders that we face today; that we as a Senate do not let politics triumph over the rule of law which makes us have the kind of country we can all be very proud of because we abide by the rule of law; that we as a country make sure we stand up for the human and moral issues that are very much on stage in this debate over immigration reform. Those issues should take precedence over a political agenda which is obviously unfolding with this legislation that has been brought to the floor of the Senate today.

Finally, I ask the White House, President Bush, to end the silence on this issue. President Bush has been working on this issue for a long time. He is a former Governor of a border State. He knows what is at stake on this issue. I hope the White House can provide this body and the House of Representatives with the kind of guidance they were providing us when we were dealing with the issue some months ago.

I thank the Chair. I yield the floor.

Mr. KENNEDY. Mr. President, how much time is allocated in morning business?

The PRESIDING OFFICER. There is 37 minutes.

Mr. KENNEDY. For each speaker, is there a time limitation?

The PRESIDING OFFICER. On the Democratic side, 37 minutes remain.

GLOBAL TERRORISM

Mr. KENNEDY. Mr. President, according to reports in Sunday's New

York Times and Washington Post, a National Intelligence Estimate prepared last April concludes that the war in Iraq has made the problem of global terrorism worse and that terrorist cells have metastasized and spread across the globe.

For more than 3 years, President Bush and the Republican Congress have repeatedly claimed the war in Iraq is making America safer. Now, we learn that the 16 agencies in the intelligence community concluded just the opposite last April—that the Iraq war has become a rallying cry for extremists against the United States and made the war on terror more difficult to win.

The American people have the right to hear from our Nation's top intelligence official about the conclusions of the intelligence community in this report. Before Congress adjourns this week, Director of National Intelligence John Negroponte should testify in open session about this report. In addition, an unclassified version of the key judgments and discussion about Iraq in the report should be made available to the public in a way that protects sources and methods.

With more than 140,000 American troops on the ground in Iraq and terrorist attacks increasing around the globe, the stakes for the safety of all Americans are enormously high. It is our obligation to hear directly from Mr. Negroponte before adjourning at the end of this week. It is essential that Congress and the American people obtain a fuller understanding about the conclusions of the intelligence community about the impact of the Iraq war.

In addition, the President and Vice President must explain statements they have made that are directly at odds with this National Intelligence Estimate.

Despite the conclusion of the intelligence community that the war has been a recruitment tool for a new generation of extremists, on numerous occasions since the document was prepared, President Bush has claimed that the war has made America safer.

On September 7, President Bush said:

We've learned the lessons of 9/11 * * * We've gone on the offense against our enemies, and transformed former adversaries into allies. We have put in place the institutions needed to win this war. Five years after September the 11th, 2001, America is safer—and America is winning the war on terror.

On September 11, President Bush said:

Saddam's regime posed a risk that the world could not afford to take. The world is safer because Saddam Hussein is no longer in power.

Despite the conclusion of the intelligence community 5 months earlier that new threats are emerging because of the war in Iraq, Vice President CHENEY said the exact opposite on September 10. He said:

We are better off there because of what we've done to date. We are less likely to have a threat emerge against the United States from that corner of the world than would

have been the case if Saddam were still there.

The American people deserve to know whether the President and Vice President are intentionally misleading us about our safety or whether they are simply ignoring the intelligence community. Clearly, America deserves better from its leaders.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded. I ask to speak for up to 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. I ask unanimous consent I be permitted to speak for up to 20 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERRORIST TRIBUNALS

Mr. CORNYN. Mr. President, one of the lessons America learned after the tragic events of September 11, 2001, is the danger of treating our fight against global terrorism as a law enforcement function alone. This was documented time and time again, whether it is the wall that was erected that prevented intelligence authorities from getting access to important information and sharing it with law enforcement authorities, and vice versa, or whether it was waiting until a terrorist attack occurred and then merely investigating in the rubble and the destruction left behind, and then prosecuting the person, if, in fact, he could be prosecuted and brought to justice.

It concerns me a great deal that we have seemed to lapse once again into a pre-September 11 mindset where some of our colleagues, as we debate the use of terrorist tribunals and the access to our court system those convicted of war crimes should have, seem to have forgotten some of those lessons learned from September 11. It is important we not fight this global war on terrorism strictly as a law enforcement matter, punishing conduct after the fact rather than gaining intelligence we need in order to detect, deter, and disrupt terrorist attacks from occurring in the first place. Specifically, I will address what sort of avenues of appeal detainees at Guantanamo Bay should have regarding their convictions and their status review.

Members may recall late last year the Congress passed something called the Detainee Treatment Act in which we thought we had dealt comprehensively with the issue of how detainees, unlawful combatants, should be treated. Of course, we reiterated our commitment, the ban against torture, cruel and inhumane and degrading conduct, but in that important piece of legislation, Congress also said that detainees, these unlawful combatants,

people who do not observe the laws of war, who target innocent civilian populations, are not entitled to receive the full panoply of rights accorded to American citizens when tried in an Article III court of law.

Specifically, we said that for the writ of habeas corpus that otherwise might be available to them, we would substitute an alternative procedure composed of three different things. We created the combat status review tribunal, first, which was designed to make sure the individuals who are actually detained at Guantanamo Bay were, in fact, enemy combatants, and to make sure we did not in the course of or in the fog of war sweep up innocent bystanders who were not actually a threat to the United States. These combat status review tribunals have very important procedures I will mention in a moment.

However, we also saw the use of administrative review boards that on an annual basis review the status of a particular detainee at Guantanamo Bay to determine, No. 1, whether they were a continuing threat to the American people or our allies, and, No. 2, whether additional actionable intelligence could be obtained from them during the interrogation process.

This administrative review board is an annual process and has resulted in the release of many of the detainees who were at Guantanamo Bay who had been determined to no longer be a danger to the American people or our allies.

The fact is these two procedures—the combatant status review tribunal and the administrative review board—are coupled together with an additional right of appellate review provided under the Detainee Treatment Act which is full review of a conviction by a military commission by the District of Columbia Court of Appeals in the Nation's capital. That court is not restricted in any way to review any and all errors they believe are material to the outcome of the case, and I believe, combined with the combatant status review tribunal and the administrative review board, does provide a due process for these detainees in a way that does not jeopardize this legislation, should it be ultimately reviewed by the U.S. Supreme Court.

Actually, I think it might surprise some of our colleagues to be talking about this issue because they may well have thought we addressed this issue late last year when we passed the Detainee Treatment Act. The fact is, in the Hamden case, handed down in June, the U.S. Supreme Court said Congress had not made sufficiently clear its intention to apply the Detainee Treatment Act to pending cases. Therefore, it went on to decide the Hamden case, refused to throw out the appeal based on a lack of jurisdiction, and, in fact, left us with a situation where about 300 of the detainees at Guantanamo Bay have about 600 applications for writs of habeas corpus pending in American courts.